

FILED JUNE 1, 1995

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA)	CRIM. NO.
)	
v.)	<u>INFORMATION</u>
)	
TIERNAY METALS,)	[15 U.S.C. § 1]
)	
Defendant.)	FILED:
_____)	

THE UNITED STATES OF AMERICA, ACTING THROUGH ITS ATTORNEYS,
CHARGES:

1. TIERNAY METALS is made a defendant on the charge stated below.

DESCRIPTION OF THE OFFENSE

2. Beginning at least as early as January 1991 and continuing through at least September 1991, the exact dates being unknown to the United States, the defendant and co-conspirators formed, joined and participated in a conspiracy to suppress and eliminate competition by fixing the prices for the sale of small press hard alloy aluminum extrusions ("SPHAE") to their customers located throughout the United States. The conspiracy unreasonably restrained interstate trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

3. The charged conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendant and co-conspirators, the substantial terms of which were:

- (a) To quote list price ("book price") for the sale of SPHAE to original equipment manufacturers of aircraft ("aircraft OEM's"), aircraft OEM subcontractors and other customers; and

- (b) To sell SPHAE to aircraft OEM's, aircraft OEM subcontractors and other customers at book price.

MEANS AND METHODS OF THE CONSPIRACY

4. For the purpose of forming and carrying out the charged conspiracy, the defendant and co-conspirators did those things that they combined and conspired to do, including, among other things:

- (a) In a meeting held sometime between late January and early February 1991, they discussed and agreed to quote only book price to their SPHAE customers;
- (b) In several subsequent meetings they discussed and agreed:
 - (1) to limit the number of alternative book price quotations offered to SPHAE customers; and
 - (2) to quote at or above book price in response to certain requests for quotes from SPHAE customers;
- (c) In telephone conversations they notified each other of suspected deviations from book price and assured one another that they would continue to quote book price to their SPHAE customers;
- (d) They quoted prices at or above book prices for the sale of SPHAE in response to requests for quotes from aircraft OEM's, aircraft OEM subcontractors and other customers; and

- (e) They sold SPHAE to aircraft OEM's, aircraft OEM subcontractors and other customers at collusive and noncompetitive prices and received payments for such sales.

DEFENDANT AND CO-CONSPIRATORS

5. TIERNAY METALS is a corporation organized and existing under the laws of the State of California, with its principal place of business in Redondo Beach, California. During the charged conspiracy period, TIERNAY METALS was a distributor engaged in the business of selling aluminum extrusions, including SPHAE.

6. Various individuals and corporations, not made defendants herein, participated as co-conspirators in the offense charged and performed acts and made statements in furtherance of it.

7. Whenever reference is made to any act, deed or transaction of any corporation, the allegation means that the corporation engaged in the act, deed or transaction by or through its officers, directors, agents, employees, or other representatives while they were actively engaged in the management, direction, control or transaction of its business or affairs.

DEFINITIONS

8. "Aluminum extrusion," as used in this Information, is a product that is manufactured by using a hydraulic press to push a heated aluminum-based alloy through a die to produce a shape, then performing other operations on the extruded shape to meet customer specifications.

9. "Small press hard alloy aluminum extrusions" (SPHAE), as used in this Information, are extrusions that are less than five inches in circle size and less than three pounds per foot in weight.

TRADE AND COMMERCE

10. SPHAE distributors purchase SPHAE's from extrusion manufacturers and, among other things, store and resell SPHAE's to customers.

11. The sale of aluminum extrusions by SPHAE distributors is often made on the basis of competitive quotes, with the sale often made by the distributor submitting the lowest price quote.

12. At all times relevant to this Information, SPHAE purchased by the defendant were manufactured in Arizona and California and shipped in a continuous and uninterrupted flow of interstate commerce to the defendant in California and its branch offices in Washington, Kansas, Georgia and Connecticut.

13. At all times relevant to this Information, SPHAE sold by the defendant and co-conspirators were shipped in a continuous and uninterrupted flow of interstate commerce from California to customers located in other states and foreign countries.

14. The activities of the defendant and co-conspirators that are the subject of this Information were within the flow of, and substantially affected, interstate trade and commerce.

JURISDICTION AND VENUE

15. The conspiracy charged in this Information was formed and carried out, in part, within the Central District of California within the five years preceding the filing of this Information.

ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

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